THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26857 OF 1995

ORAL ORDER:

The petitioners claim to be the owners of land to an extent of Ac.6.44 cents and 4.68 cents situated in Sy.Nos.612/20 and 612/21, Tandur village and Mandal. It is alleged that the said land was submerged for the purpose of Gummalavani Kunta Tank. It is alleged that the respondents failed to initiate proceedings either under the Land Acquisition Act, 1894, or any other law in force, to pay compensation for the lands belonging to the petitioners, which were submerged due to raising of Full Tank Level of Gummalavani Kunta Tank. In support of their claim, the petitioners placed reliance upon the letter of the Mandal Revenue Officer, Tandur, dated 24.6.1993, in which the Revenue Divisional Officer, Asifabad, was apprised of the fact that the land in Sy.Nos. 612/20 and 612/21, Tandur, were submerged due to restoration of the tank by name Gummalavani Kunta Tank, and requested to direct the concerned Engineering Department to peg mark and take measurements of the actual area coming under submergence so as to take necessary steps under the Land Acquisition Act for acquisition of the same. It is alleged that in spite of the said letter addressed by the Mandal Revenue Officer, Tandur-4th respondent herein, no further steps have been taken for payment of compensation to the petitioners. Hence, this writ petition.

In response to the Rule nisi, the Executive Engineer, I & B Division, Mancherial, filed a counter-affidavit stating that Gummalavani Kunta Tank was an old tank which was constructed more than three decades ago. It was further stated that the Full Tank Level of the said tank has not been raised as alleged by the petitioners and, therefore, the question of submergence of petitioners land does not arise. It was further stated that in pursuance of the letter from the Revenue Divisional Officer, Asifabad, dated 3.7.2002, requesting the Executive Engineer, I & CAD, to submit a requisition furnishing details of

acquisition of land in Sy Nos.612/20 and 612/21, the then Executive Engineer, along with the Deputy Executive Engineer inspected the Tank on 8.8.2002 and found that the Full Tank Level was not raised. The said fact was reported to the Revenue Divisional Officer, Asifabad. Accordingly, it was contended that the question of payment of compensation to the petitioners for the alleged submergence does not arise.

I have heard the learned counsel for both parties.

From the material on record, it is clear that two conflicting views were expressed by the Revenue and Irrigation departments. Whereas the Mandal Revenue Officer, Tandur in his letter dated 24.6.1993 stated that the land in question had come under submergence due to restoration of Gummalavani Kunta Tank, the 5th respondent-Executive Engineer, Irrigation Branch, in his counter-affidavit categorically denied the same, stating that the Full Tank Level of the tank was never raised.

No counter-affidavit has been filed by the respondents 3 and 4. Though in the counter-affidavit filed by the 5th respondent it is stated that the land in question was inspected on 8.8.2002, obviously the said inspection was conducted without notice to the petitioner. The learned counsel for the petitioner, across the bar, asserted that the plea of the 4th respondent is incorrect and as a matter of fact, the land in question continued to be submerged even as on today.

In the circumstances, though the writ of *mandamus* as prayed for cannot be granted, I deem it appropriate to dispose of the writ petition with a direction to the 2nd respondent-Sub Collector, Asifabad, to cause an enquiry by conducting a joint inspection with the officials of Revenue, Irrigation as well as Panchayat Raj Departments in the presence of the petitioners and to take necessary further steps in accordance with law on the basis of such Inspection report.

The writ petition is accordingly disposed of. No costs.

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(G. ROHINI, J.)

5th September, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26857 OF 1995

5th September, 2006.

Between:

T. Bapu Goud and another. . Petitioners.

And

The District Collector, Adilabad and others. ..

Respondents.